HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO. 24544 OF 2006

Between:

Dr. T.K. Srinivasulu

..... Petitioner

AND

The State of Andhra Pradesh
Rep. by its Secretary, Health, Medical & Family
Welfare Department, Hyderabad & others

.....Respondents

:: O R D E R ::

Counsel for the petitioner : Dr. T.K. Srinivasulu
Party-in-person.

Dated: 27.11.2006

Per G.S.SINGHVI, CJ

The petitioner, who is presently holding the post of Senior Medical Officer and posted in Government Homoeo Hospital, Motigalli, Hyderabad and appears to be a competitor for the position of Superintendent of the said hospital, has filed this petition under Article 226 of the Constitution of India in the name of public interest litigation for grant of a declaration that the appointment of respondent No.3 - Dr. K. Seshagiri Rao (presently posted as Superintendent, Government Homoeo Hospital, Motigalli, Hyderabad) on the post of Junior Medical Officer, Homoeo is illegal. He has further prayed for issue of a direction to the official respondents to dismiss respondent No.3 from service.

The aforementioned prayer of the petitioner is founded on the assertion that respondent No.3 does not fulfill qualification prescribed under Rule 5 of the Andhra Pradesh Indian Medicine Subordinate Service Rules, 1969 (for short, 'the Rules') inasmuch as he is not conversant with Hindu and Urdu languages. According to the petitioner, respondent No.3 is not in a position to understand the language of the patients who come for treatment in Government Homoeo Hospital, Motigalli, Hyderabad and, on that account, the patients are adversely affected and at times they are receiving wrong treatment.

Along with the writ petition, the petitioner has annexed copy of the Rules and copies of representation dated 25-3-2005 made

by the patients, representation dated 5-5-2006 made by Shri Mumtaz Ahmed Khan, Member of Legislative Assembly, his own letters dated 9-6-006 and 31-8-2006 sent to the Commissioner, Department of Ayush, Hyderabad. During the course of hearing, he filed an additional affidavit along with some prescriptions and bed head tickets.

We have heard the petitioner, who has appeared in person, and have gone through his affidavit, additional affidavit and annexed documents. The petitioner made strenuous efforts to persuade us to direct the official respondents to dismiss respondent No.3 from service by contending that he does not fulfill the qualification prescribed for recruitment of Junior Medical Officer, Homeo, but we have not felt impressed. Rather, we are of the considered view that the writ petition is liable to be dismissed as abuse of the process of the Court. The petitioner's assertion that respondent No.3 is not conversant with Hindi and Urdu languages is mainly founded on Xerox copy of letter dated 05.05.2006 written by Member of Legislative Assembly Shri Mumtaz Ahmed Khan. However, he has not disclosed as to how he procured copy of that letter and why Shri Mumtaz Ahmed Khan has not pursued the cause of the public. The representation allegedly made by some patients in 2003 and two representations made by the petitioner in 2003 may support his complaint against the posting of respondent No.3 in a hospital where majority of patients are Urdu and Hindi speaking, but these documents cannot be made basis for recording a finding that respondent No.3 was not eligible to be appointed as Junior Medical officer, Homeo on 1-

2-1978 and his appointment made 28 years ago should be quashed.

We are further of the view that in the name of public interest, the petitioner is seeking to vindicate his personal interest. This inference of ours is evinced from document dated 09.06.2006 in which the petitioner has been described as Superintendent in-charge, Government Homoeo Hospital, Motigalli, Hyderabad and representation dated 31.08.2006 made by him to Commissioner, Department of Ayush, Government of Andhra Pradesh in which respondent No.3 has been described as Superintendent, Government Hospital, Motigalli. It appears that as soon as respondent No.3 was posted as Superintendent of the hospital, the petitioner was deprived of the charge of post of Superintendent and in order to protect his position, he has filed this petition.

For the reasons stated above, we hold that the writ petition is a frivolous piece of litigation and is liable to be dismissed as such. Ordered accordingly.

We would have saddled the petitioner with exemplary costs for misusing the process of the Court, but refrain from doing so because he is appearing in person.

As a sequel to dismissal of the writ petition, W.P.M.P.No.31381 of 2006 filed by the petitioner for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

27.11.2006

Note: Copy of this order may be sent to Secretary, Medical Health & Family Welfare Department, Government of Andhra Pradesh, Secretariat, Hyderabad, so that he may look into the matter relating to posting of respondent No.3.
(BO)

ksld